

[Appearing Counsel on next page]

FILED

DISTRICT COURT OF GUAM

JUN - 2 2006

MARY L.M. MORAN
CLERK OF COURT**DISTRICT COURT OF GUAM****TERRITORY OF GUAM**JULIE BABAUTA SANTOS, *et. al.*,

Petitioners,

-v-

FELIX P. CAMACHO, *et. al.*

Respondents.

Civil Case No. 04-00006

**MOTION OF JULIE BABAUTA
SANTOS AND CHARMAINE R.
TORRES FOR LEAVE TO FILE
JOINT PETITION FOR
DECLARATORY AND INJUNCTIVE
RELIEF, AND/OR FOR RECOVERY
OF EARNED INCOME TAX
CREDITS, OR IN THE
ALTERNATIVE FOR A WRIT IN THE
NATURE OF MANDAMUS;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

CHARMAINE R. TORRES, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM, *et al.*,

Defendants.

CLASS ACTION

Civil Case No. 04-00038

MARY GRACE SIMPAO, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM,

Defendant.

Civil Case No. 04-00049

-v-

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant.

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MOTION AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF

JULIE BABAUTA SANTOS (“Santos”) **AND CHARMAINE R. TORRES** (“Torres”) (collectively “Petitioners”), on behalf of themselves and a class of others similarly situated (hereinafter the “EIC Class”), by and through their attorneys of record, Phillips & Bordallo, P.C. and Lujan Aguigui & Perez LLP, respectfully move this Court for leave to file a Joint Petition (the “Joint Petition”) in the above captioned cases. The proposed Joint Petition is attached as Exhibit “1” to the Stipulation¹ filed separately and concurrently herewith.

On May 26, 2006, the parties to Civil Action Nos. 04-00006 (the “*Santos* Action”) and 04-00038 (the “*Torres* Action”) submitted to the Court a Settlement Agreement resulting from a mediation held in April 2006 and from discussions and negotiations ensuing thereafter. The parties also submitted a Joint Motion for Preliminary Approval of the Settlement Agreement.

Section II(a)(i) of the Settlement Agreement provides that within seven (7) days of its execution, the parties shall stipulate to the filing of a joint petition by Santos and Torres in the form attached to the Settlement Agreement as Exhibit “A.” The Joint Petition reflects the decision of Santos and Torres, and their respective attorneys, to proceed in unity for purposes of settlement, combining their efforts in order to implement the Settlement Agreement and in order to ultimately resolve these class actions as efficiently and as fairly as possible for the benefit of the EIC class.

Consequently, the Joint Petition is meant to consolidate and unify the claims of the Petitioners against the settling Respondents,² and to amend the definition of the now expanded EIC class so as to be consistent with the language of the Settlement Agreement. If the Court finds it desirable for purposes of judicial economy or otherwise, Petitioners note that the Court could consolidate the *Santos* and *Torres* actions under a unified caption and case number for purposes

¹ Stipulation of the *Santos* and *Torres* Parties Pursuant to Section II(a)(i) of the May 26, 2006 Class Action Settlement Agreement.

² The Joint Petition does not name the Attorney General of Guam as a Defendant or Respondent. A separate filing to dismiss the Attorney General as a party defendant from the *Torres* Action is being submitted concurrently herewith.

1 of settlement. *See, e.g., Does I v. The Gap, Inc.*, 2002 WL 1000073, *1 (D. N. Mar. I. 2002)
2 (consolidating cases for purposes of class action settlement and assigning a single unified case
3 number for the consolidated cases).

4 Amendments of pleadings are governed by Rule 15 of the Federal Rules of Civil
5 Procedure. After a party has amended his or her pleading once as a matter of course before a
6 responsive pleading is served, Rule 15(a) provides that further amendments may be made "only
7 by leave or court or by written consent of the adverse party; and leave shall be freely given when
8 justice so requires." Fed. R. Civ. P. 15(a). Petitioners submit that good cause exists for the Court
9 to grant leave to file the Joint Petition, in light of the reasons set forth in this motion.

10 Respectfully submitted this 2nd day of June, 2006.

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12 **PHILLIPS & BORDALLO, P.C.**

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14 By: 

MICHAEL F. PHILLIPS, ESQ.

15 *Attorneys for Petitioner Julie Babauta Santos*

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17 **LUJAN AGUIGUI & PEREZ LLP**

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